

REMARKS

The Examiner has made a requirement for restriction between the following groups of claims:

Group I: Claims 1-7, drawn to an icemaker having an assembly and a means for mounting the fan assembly; and

Group II: Claims 8 and 9, drawn to a method of controlling an icemaker that has a fan assembly.

In order to comply with the Examiner's Restriction Requirement, Applicants provisionally elect to prosecute Group I, directed to claims 1-7, for prosecution in the present application. Applicants reserve the right to file a Divisional application directed to the non-elected claims at a later date, if so desired. This election is respectfully traversed.

Applicants respectfully submit that the Examiner has failed to comply with the special rules governing Restriction Requirements in national stage applications filed under 35 U.S.C. § 371, such as the present application. As the Examiner may appreciate, the rules governing restriction practice in national stage applications are different from the restriction practice rules applied to regular U.S. applications.

The Examiner states that the Group I and Group II inventions do not relate to a single inventive concept because they lack the same or corresponding special technical features. The Examiner cites PCT Rule 13.2 as supportive of this requirement for restriction.

Applicants respectfully submit that PCT Rule 13.2, which essentially mirrors the language set forth in 37 C.F.R. 1.475(a), is not applicable in this instance due to the special exceptions set forth in 37 C.F.R. 1.475(b)(2). As the Examiner must appreciate, unity of invention of national stage applications is specifically governed by the provisions of 37 C.F.R. 1.499 and 1.475. 37 C.F.R. 1.475(b) specifically states that:

[A] national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:... (2) A product and process of use of said product. (emphasis added).

Applicants respectfully submit that the process set forth in the Group II invention is specifically designed for use with the icemaker of the Group I invention. Accordingly, they are

related as “[a] product and process of use of said product”, and therefore they qualify for the exemption to restriction as provided by 37 C.F.R. 1.475(b).

The Examiner states that the inventions lack a special technical feature because allegedly the method of Group II can be practiced without the mounting hooks of Group I. Regardless of whether the method can be practiced without mounting hooks, 37 C.F.R. 1.475(b)(2) specifically states that the different categories of invention will be considered to have unity of invention, and are thus not restrictable in any way, if they are related as a product and a process specifically designed for use with that product.

Accordingly, Applicants respectfully submit that this national stage application satisfies the requirements of unity of invention, and therefore a restriction between the two groups is improper.

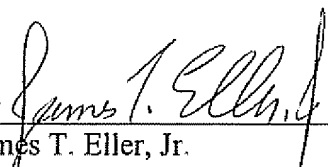
For the above recited reasons, Applicants respectfully request that the requirement for restriction be reconsidered and withdrawn.

In order to comply with the Examiner's requirement, Applicants have provisionally elected one invention for prosecution in the event the requirement for restriction becomes final, thus preserving the right to petition the requirement for restriction, which petition may be deferred until after final action on or allowance of claims to the invention elected accordingly to 37 C.F.R. 1.144. However, Applicants believe that it will be unnecessary to petition the above requirement for restriction since it is believed that the requirement for restriction will be withdrawn based on the above remarks.

Accordingly, in view of the above remarks, reconsideration of the requirement for restriction and an action on all of the claims in the application are respectfully requested.

Dated: November 13, 2006

Respectfully submitted,

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